

## Amendment 38 Petitions

1           **Amendment 38 is an amendment to the Colorado Constitution that:**

- 2           ◆ expands the ability of citizens to propose changes to laws or  
3           ordinances to all levels of government;
- 4           ◆ creates and modifies procedures for proposing such changes;
- 5           ◆ limits elected officials' ability to change or revisit measures that voters  
6           have previously decided; and
- 7           ◆ limits the number of measures elected officials may exempt from  
8           voter challenge.

9           **Summary and Analysis**

10          The Colorado Constitution currently provides two ways for citizens to propose  
11          changes to state law or city or town ordinances. In both processes, citizens collect a certain  
12          number of signatures on a petition to place a law change on the ballot. For one process,  
13          citizens *propose* a law change that becomes law if voters approve it. For the second  
14          process, citizens *challenge* a law approved by elected officials. A challenged law takes  
15          effect only if voters approve it.

16          Amendment 38 allows citizens to propose and challenge laws at all other levels of  
17          government, including school districts, counties, special districts, authorities, and other  
18          special purpose government entities. Currently, counties and school districts have limited  
19          petition powers, which are granted by state law. In addition to expanding the ability of  
20          citizens to put law changes on the ballot, Amendment 38 changes many requirements of  
21          the existing process. Tables 1 through 3 summarize the differences between the current  
22          process and the proposal.

23          **Table 1 — elections and voter information materials.** A proposed law change is  
24          placed on the ballot when it receives the required number of valid signatures. Specific  
25          voter information materials are required at the state and municipal level.

1  
**Table 1. Elections and Voter Information Materials for Measures Places on the Ballot by Petition**

2	<b>Issue</b>	<b>Current Process for State and Municipal Governments</b>	<b>Proposed Process for All Governments</b>
3	What types of measures may appear on the ballot by petition in November elections?	Any measure in even-numbered years; only tax and spending measures in odd-numbered years	Any measure at any November election
4	May voter-approved laws or ordinances be changed by an elected body?	Yes	Not without voter approval
5	What informational materials are required to be given to voters?	<u>State</u> - A ballot information booklet prepared by the General Assembly's nonpartisan staff; <u>Municipal</u> - Fiscal impact information and a summary of comments filed by proponents and opponents on fiscal measures	Comments from proponents of up to 1,000 words and a summary of comments by opponents, not to exceed the length of the proponents' comments
6	May government officials and employees discuss pending ballot measures?	As long as they are not advocating for a particular measure, government officials and employees may respond to questions from the public and provide factual summaries, including arguments for and against a proposal.	Government officials and employees may not discuss or use government resources to discuss any measure when the petition forms are ready for signatures; procedural information required by law or court cases is permitted.

20  
**Table 2 — petition procedures related to title, petition forms, and signatures.**

21 Before a proposed or challenged law appears on the ballot, a title for the measure is set.  
 22 A title tells voters how the law will change if the measure passes. It appears on petition  
 23 forms and on the ballot. Once the title is set, proponents of the measure collect signatures  
 24 on petition forms approved by state or municipal officials. A certain number of signatures  
 25 of registered Colorado voters must be collected to place a measure on the ballot. The  
 26 signatures are then verified for accuracy before the measure appears on the ballot.

27  
**Table 2. Petition Procedures**

28	<b>Issue</b>	<b>Current Process for State and Municipal Governments</b>	<b>Proposed Process for All Governments</b>
29	Who sets the title for a measure?	<u>State</u> - A three-member board; <u>Municipal</u> - City or town council	Current process, or any district court may set the title
30	Are there limitations on the length of the title?	No	Yes, 75 words
31	How are title disputes resolved?	<u>State</u> - Titles are reconsidered by the title board, then appealed to the Supreme Court. <u>Municipal</u> - The process is established at the local level.	Supreme Court decides all title disputes within 7 days of filing; no other appeals are allowed.

**Table 2. Petition Procedures (Cont.)**

Issue	Current Process for State and Municipal Governments	Proposed Process for All Governments
1 2	What information is on the petition form?  <u>State</u> – The ballot title appears on every page. <u>Municipal</u> – A summary of the measure appears on every page.	At state level, the ballot title does not appear on every page. A summary of the measure may not appear on the form.
3 4	What information must petition signers provide?	Name, address, city or town, county, and date
5 6 7	How many signatures are required to place a measure on the ballot?	<u>State</u> – 5 percent of votes cast for secretary of state in the last general election, including vacancy elections; <u>Municipal</u> – 5 percent of registered electors
8 9	How are signatures checked?	Signatures are counted and verified using random sampling or a check of each signature. Election officials have 30 days to count and verify signatures.
10 11 12	In what circumstances may signatures be removed or challenged?	Duplicate or incomplete signatures and signatures of individuals who are not registered voters may be removed by state and local election officials during the 30-day verification period. <u>State</u> - A challenge must be submitted within 30 days after the secretary of state verifies the petition signatures. <u>Municipal</u> - A challenge must be filed within 40 days of petition filing.
13 14 15	What are the requirements for people who collect signatures?	<u>State</u> – Must be eligible to vote in the state; <u>Municipal</u> – Must be 18 years old
16 17 18	How much time are proponents allowed to gather signatures?	Up to 6 months for proposed laws <u>State</u> – 90 days to challenge laws; <u>Municipal</u> – 30 days to challenge ordinances
19 20 21 22	What happens if proponents fail to turn in the required number of signatures by the deadline?	The proposed measure is not placed on the ballot and signatures are discarded.
		The signatures may be submitted for the next year's election.

1                   **Table 3 — challenges to laws enacted by elected officials.** Voters may challenge  
2 a law passed by elected officials unless the measure contains a "safety clause" stating that  
3 it is necessary for the immediate preservation of the public peace, health, and safety.

4                   **Table 3. Requirements for Voter Challenges**

5 <b>Issue</b>	6 <b>Current Process for State and</b> 7 <b>Municipal Governments</b>	8 <b>Proposed Process for All</b> 9 <b>Governments</b>
10                  How many measures may 11                  elected officials exempt 12                  from voter challenge?	13                  No limit	14                  12 per year
15                  How are measures exempted 16                  from voter challenge?	17                  State - A measure contains a safety 18                  clause; 19                  Municipal - Three-fourths of the 20                  governing body passes a measure with 21                  a description of the emergency 22                  justifying the exception	23                  Three-fourths of the 24                  governing body passes a 25                  measure with a description 26                  of the emergency justifying 27                  the exception
28                  If a measure is rejected in an 29                  election, may elected 30                  officials enact a similar 31                  measure in the future?	32                  Yes	33                  Not without voter approval

34                  **Arguments For**

35                  1) Amendment 38 makes local elected officials more responsive to constituents  
36                  by extending the petition process to all levels of government. It ensures that state and local  
37                  issues will be addressed at the appropriate level of government. Local and regional  
38                  concerns would no longer have to be addressed through a statewide measure. Citizens will  
39                  gain an expanded role in government actions that affect their lives with a greater likelihood  
40                  that officials will focus on their concerns.

41                  2) The proposal streamlines petition procedures and creates a consistent process.  
42                  The procedural changes increase access to the petition process for proponents and voters.  
43                  Specifically, the proposal limits the length of ballot titles, eases the requirements for  
44                  petition signatures, and simplifies procedures related to court challenges. Additionally, it  
45                  allows proponents and opponents of a measure, rather than government staff, to write the  
46                  information that is distributed to voters for all state issues placed on the ballot by petition.

47                  3) Amendment 38 supports the rights of the people to reject new laws, ordinances,  
48                  or resolutions passed by governments. The use of the "safety clause" on state laws has  
49                  historically prevented citizens from challenging those laws. In the past five years, for  
50                  example, over 60 percent of state laws have contained a safety clause. Amendment 38  
51                  limits the number of laws that may be exempted from challenge. Further, when voters  
52                  successfully propose or challenge a policy through the petition process, Amendment 38  
53                  requires governing bodies to respect that vote and to get voter approval before changing  
54                  a policy.

1           4) Amendment 38 may reduce the number of future changes to the state  
2           constitution. The current process encourages proponents to initiate constitutional  
3           amendments because they cannot be changed by the legislature. Under Amendment 38,  
4           petition proponents will be more likely to consider proposing statutory rather than  
5           constitutional changes because changes to initiated laws will require voter approval.  
6           Additionally, the proposal allows the legislature to reduce the number of signatures needed  
7           to propose statutory changes.

8           **Arguments Against**

9           1) The wide-ranging provisions of the proposal weaken representative government.  
10          Citizens elect representatives to consider all points of view on issues, to make policy  
11          decisions, and to change those decisions when necessary. Under Amendment 38, more  
12          laws may be enacted that have not received sufficient consideration, debate, or refinement  
13          and that cannot be changed without another vote of the people. Voters will ultimately be  
14          ill-served by expanded petition powers that limit the role of their elected governing bodies.

15          2) The proposal invites abuse of the petition process by eliminating current  
16          safeguards. For example, presuming signatures to be valid, rather than providing for a  
17          thorough review of signatures and sufficient time for filing challenges, may encourage  
18          fraud and manipulation of the process. By easing current requirements, the citizen petition  
19          process could become a tool for special interests to place numerous measures on the ballot.  
20          A sound petition process should include sufficient checks and balances to maintain public  
21          trust.

22          3) The proposal may result in voters having to decide an increasing number of  
23          complex issues proposed by citizens at every level of government, but with less  
24          information than they have today. Voters will only receive information from individuals  
25          with an interest in the success or failure of the measure. Further, proponents will  
26          determine how much information is provided on both sides of the issue. An impartial  
27          analysis or summary of a proposed measure is not permitted, and government officials and  
28          employees would be restricted from answering questions from the public once petitions  
29          are being circulated. In addition, the proposal could create inconsistencies between  
30          election processes for measures brought by petition and for other types of elections.

31          4) The requirements in Amendment 38 limit governments' ability to respond to  
32          changing circumstances, economic conditions, or emergencies. Under provisions for  
33          challenging laws, timetables for holding elections can delay the implementation of laws  
34          or ordinances and create a way for a small group of citizens to stall the legislative process.  
35          Further, once voters reject a law at an election, elected officials may not pass a similar law  
36          without voter approval.